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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,046	02/01/2001	Johannes Eduard Maria Antonius Debets	DX01073K	3164

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DNAX RESEARCH, INC.  
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EXAMINER

ANDRES, JANET L

ART UNIT PAPER NUMBER

1646

DATE MAILED: 11/18/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n N .

09/775,046

Applicant(s)

ANTONIUS DEBETS ET AL.

Examin r

Janet L Andres

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-- The MAILING DATE of this c mmunicati n appears on the cover sheet with the correspondence address --

**Peri d for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 September 2002 .
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

### **DETAILED ACTION**

Applicant's election with traverse filed 9 September 2002 is acknowledged. On consideration, the restriction requirement of paper no. 8 is withdrawn and a new restriction requirement is imposed as follows:

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, drawn to methods of producing a ligand-receptor complex, classified in class 435, subclass 7.1.
- II. Claims 4-11, drawn to methods of modulation of the IL-1R6 receptor, classified in class 514, subclass 2.
- III. Claims 12-15, drawn to methods of identifying and purifying cells, and cells obtained by these methods, classified in class 435, subclasses 7.1 and 325.
- IV. Claims 16 and 17, drawn to screening methods, classified in class 435, subclass 7.1.
- V. Claim 18, drawn to polynucleotides encoding SEQ ID NO:2, classified in class 435, subclass 69.1.
- VI. Claim 18, drawn to polynucleotides encoding SEQ ID NO:4, classified in class 435, subclass 69.1.
- VII. Claim 19, drawn to the polypeptide of SEQ ID NO: 2, classified in class 530, subclass 351.
- VIII. Claim 19, drawn to the polypeptide of SEQ ID NO: 4, classified in class 530, subclass 351.

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- IX. Claim 20, drawn to antibodies against the polypeptide of SEQ ID NO: 2, classified in class 530, subclasses 388.1 and 389.1.
- X. Claim 20, drawn to antibodies against the polypeptide of SEQ ID NO: 4, classified in class 530, subclasses 388.1 and 389.1.

The inventions are distinct, each from the other because of the following reasons:

The methods of group I are not related to those of group II. They require different reagents and different method steps and have different goals outcome measures.

The methods of group I are distinct from those of group III because they have different method steps and have different goals and outcome measures.

The methods of group I are distinct from those of group IV because they have different goals and outcome measures.

The methods of group I are not related to the polynucleotides of groups V or VI. The polynucleotides cannot be used in the methods.

The methods of group I are distinct from the polypeptides of groups VII and VIII. The polypeptides have other uses, such as the generation of antibodies.

The methods of group I are not related to the antibodies of groups IX and X. The antibodies cannot be used in the methods.

The methods of group II are not related to the methods of group III. They require different reagents and have different goals and outcome measures.

The methods of group II are not related to the methods of group IV. They require different reagents and have different goals and outcome measures.

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The methods of group II are not related to the polynucleotides of groups V and VI. The polynucleotides cannot be used in the methods.

The methods of group II are not related to the polypeptides of groups VII and VIII. The polypeptides cannot be used in the methods.

The methods of group II are distinct from the antibodies of group IX and X. The antibodies have other uses, such as the purification of protein.

The methods of group III are not related to the methods of group IV. They require different reagents and have different goals and outcome measures.

The methods of group III are not related to the polynucleotides of groups V and VI. The polynucleotides cannot be used in the methods.

The methods of group III are distinct from the polypeptides of groups VII and VIII. The methods can be practiced with other agents and the polypeptides have other uses, such as the generation of antibodies.

The methods of group III are distinct from the antibodies of groups IX and X. The methods can be practiced with other agents and the antibodies have other uses, such as the protein purification.

The methods of group IV are not related to the polynucleotides of groups V and VI. The polynucleotides cannot be used in these methods.

The methods of group IV are distinct from the polypeptides of groups VII and VIII. They polypeptides have other uses, such as the generation of antibodies.

The methods of groups IV are distinct from the antibodies of groups IX and X. The antibodies can be identified in other ways, such as by Western blotting.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the searches required for the different groups are different, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

**For groups I, III, and IV, the species are**

a) IL-1  $\delta$

b) IL-1  $\epsilon$

These are different proteins with different sequences. One does not render another obvious.

If group I, III, or IV is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

**For group II, there are several groups of species**

1. interleukin

a) IL-1  $\delta$

b) IL-1  $\epsilon$

2. modulator

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a) antagonists

b) agonists

3. physiology

a) proliferation

b) tissue remodeling

c) inflammation

4. co-administered agent

a) none

b) chemokine receptor antagonist

c) chemokine receptor agonist

d) growth factor or cytokine

e) chemokine

f) immune adjuvant

These are each different agents or conditions that have different considerations and require different searches. One would not render another obvious.

If group II is elected, Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L Andres whose telephone number is 703-305-0557. The examiner can normally be reached on M-F, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on 703-308-6564. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.




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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Janet L. Andres, Ph.D.



Patent Examiner  
November 15, 2002